

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN

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MARIO RAY WALKER,

Plaintiff,

v.

Case No. 21-C-1490

STEPHANIE BEYER,

Defendant.

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**ORDER DENYING PLAINTIFF’S MOTION REGARDING EXHAUSTION**

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Plaintiff Mario Ray Walker, who is representing himself, filed a complaint under 42 U.S.C. §1983, alleging that Defendant Stephanie Beyer used excessive force at the Kettle Moraine Correctional Institution on August 6, 2020. Dkt. No. 9. Discovery closes October 3, 2022; summary judgment based on failure to exhaust administrative remedies were due June 27, 2022; and summary judgment on the merits are due November 2, 2022. Dkt. Nos. 15 & 19.

Defendant did not file a motion seeking summary judgment on exhaustion grounds within the time allowed. On July 5, 2022, however, Plaintiff filed a “motion to dismiss summary judgment on exhaustion grounds.” Dkt. No. 20. In the motion, Plaintiff explains the difficulties he had with the institution’s Inmate Complaint Review System and he states, “I felt I exhaust all my administrative remedies for my complaint grievance and file my lawsuit.” *Id.* at 2.

The Court will deny Plaintiff’s motion as unnecessary. Although Defendant asked for an extension of time to file a motion for summary judgment based on failure to exhaust administrative remedies, *see* Dkt. Nos. 18-19, she never actually filed such a motion and the deadline to do so has now passed. Plaintiff has therefore survived the exhaustion hurdle.

**IT IS THEREFORE ORDERED** that Plaintiff's motion to dismiss summary judgment on exhaustion grounds (Dkt. No. 20) is **DENIED** as unnecessary.

Dated at Green Bay, Wisconsin this 12th day of July, 2022.

s/ William C. Griesbach  
William C. Griesbach  
United States District Judge